

PART V.

JOINT RULES OF THE TWO HOUSES.

(With Annotations.)

DISAGREEMENTS BETWEEN THE TWO HOUSES.

§ 1680. 1. In every case of an amendment in one house, and dissented to by the other, if either house shall request a conference and appoint a committee for that purpose, and the other house shall appoint a committee to confer, such committee shall, at a convenient hour to be agreed on by their chairmen, meet in their conference chamber and state to each other, verbally or in writing, as either shall choose, the reasons of their respective houses for and against the amendment and confer freely thereon.

2. After each house shall have adhered to their disagreement, a bill or resolution is lost.

3. When a bill or resolution which shall have passed in one house is rejected in the other, notice thereof is to be given to the house in which the same may have passed.

COMMUNICATION BETWEEN THE TWO HOUSES.

§ 1681. 4. When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

5. The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

6. All messages relating to the passage, substitution or amendment of any bill, resolution or other matter in passage between the two houses shall be sent by such person as a sense of propriety in each house may determine to be proper, and shall be in writing, on but one side of separate sheet or sheets of paper, and shall be properly addressed to the presiding officer of the house to which the message be sent, and shall be signed by the person delivering the same, in his official capacity, and such message, as written, shall be printed in full in the Journal of the house receiving the same.

7. While bills and resolutions are on their passage between the two houses, they shall be on paper and under the signature of the Secretary or Clerk of each house, respectively.

8. Each house transmits to the other all papers on which any bill or resolution may be founded.

CONSIDERATION OF BILLS IN THE RESPECTIVE HOUSES AND THE FINAL PASSAGE THEREOF.

§ 1682. 9. When any Senate bill shall be reached upon the calendar or shall be before the Senate for consideration, it shall be the duty of the President to give the place of such bill on the calendar to any House bill which has been referred to and reported from a committee of the Senate containing the same subject, or to lay such House bill before the Senate to be considered in lieu of such Senate bill.

10. When any House bill shall be reached upon the calendar or shall be before the House for consideration, it shall be the duty of the Speaker to give the place of such House bill on the calendar to any Senate bill which has been referred to and reported from a committee of the House containing the same subject, or to lay such Senate bill before the House to be considered in lieu of such House bill.

11. No bill shall be considered unless it has first been referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to a committee at least three days before the final adjournment of the Legislature. (Constitution, Article III, Section 37.) And no vote shall be taken upon the passage of any bill within the last twenty-four hours of the session, unless it be to correct an error therein.

ENROLLING AND SIGNING OF BILLS AND RESOLUTIONS AND THEIR PRESENTATION TO THE GOVERNOR.

§ 1683. After a bill shall have passed both houses, it shall be duly enrolled on paper by the Enrolling Clerk of the House of Representatives or of the Senate, as the bill may have originated in the one or the other house, and properly signed by the presiding officer of each house, as required by the Constitution, before it shall be presented to the Governor.

13. When bills are enrolled they may be examined by a joint committee of three from the Senate and three from the House of Representatives, appointed as a standing committee

for that purpose, who shall carefully compare the enrollment with the engrossed bills as passed in the houses, and carefully correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective houses.

14. After examination and report, each bill shall be signed in the respective houses—first by the presiding officer of the House in which it originates, then by the presiding officer of the other house, in accordance with Article III, Section 38, of the Constitution.

15. After a bill shall have thus been signed in each house, it shall be presented to the Governor for his approbation by the Enrolling Committee of the house in which it originated, it being first endorsed on the back of the roll, certifying in which house the same originated, which endorsement shall be signed by the Secretary or Clerk, as the case may be, of the house in which the same did originate, and shall be entered on the Journal of such house. The said committee shall report the day of presentation to the Governor, which time shall be carefully entered on the Journal of the house in which the bill originated.

16. All orders, resolutions and votes which are to be presented to the Governor of the State for his approbation shall also, in the same manner, be previously enrolled, examined and signed, and shall be presented in the same manner and by the same committee as provided in the case of bills, and said report shall be accompanied by a copy of said bill as a part of said report, which said copy may be typewritten or printed, partly written and printed, or written and partly printed, and, unless it is a local bill, it shall be printed in the Journal of the House or Senate to which said report is made.

ELECTIONS BY JOINT VOTE OF THE TWO HOUSES.

§ 1684. 17. In all elections by joint vote if the two houses of the Legislature, the Senate will, upon invitation, meet the House in its Hall at the hour agreed upon. The President of the Senate shall take a seat at the right of the Speaker, and the Senators shall take seats in front of the Speaker's desk. The Speaker of the House will preside. The names of the Senators shall then be alphabetically called, after which the names of the Representatives shall be called in like manner, and if a quorum of both houses answer to their names the two houses will proceed with the business for which they have met. The President of the Senate shall first call for nominations

by Senators, and the Speaker of the House shall then call for nominations by Representatives. Nominations being made, the names of the Senators shall be called by the Secretary and their votes recorded by him. The names of the Representatives shall then be called by the Clerk, and their votes recorded by him, and the result shall be handed to and announced by the Speaker. Should a majority be required to elect, and no person receives a majority, the voting shall be repeated until an election is made. After the conclusion of the election for which the two houses have met in joint session, the Senate shall retire to its Chamber, and the result of the joint vote shall be entered on the Journal of each house.

18. If a quorum of either house shall fail to attend a joint session, or absent themselves therefrom without the permission of such house, the members of the house so wanting a quorum, if ten in number, shall have the right to compel the attendance of the absentees in accordance with its own rules; and after a reasonable time, if a quorum is not obtained, the joint session may be adjourned by the vote of a majority of the members of either house, which vote shall be taken by the presiding officer of either house, on the motion of any one of its members, without debate.

19. If no choice shall have been made on the first ballot or vote, at any time thereafter, the joint session may be adjourned, with or without naming another day for meeting, by the vote of a majority of either house, which vote shall be taken by the presiding officer of either house, on the motion of any one of its members, without delay.

20. In all conferences between the Senate and the House by committee, the number of each committee shall be five (5), and all votes on matters of difference shall be taken by each committee separately, and it shall require a majority of each committee present concurring upon the matter in dispute to determine it. The reports of all conference committees must be signed by a majority of each committee of the conference.

NOTIFICATION OF DEFEATED MEASURES.

§ 1685. 21. When a bill, joint or concurrent resolution has been defeated in the Senate or in the House, the Secretary of the Senate or the Chief Clerk of the House, as the case may be, shall immediately notify the other house of the defeat of said bill or resolution and transmit a copy of the same.

CONSIDERATION OF HOUSE BILLS IN SENATE.

§ 1686. 22. In the Senate, on Wednesday and Thursday of each week, only House bills on their third and second readings, respectively, shall be taken up and considered until disposed of, and in case one should be pending at adjournment, it shall go over to the succeeding day (Friday) as the unfinished business; and this rule cannot be suspended without the consent of the House.

CONSIDERATION OF SENATE BILLS IN HOUSE.

§ 1687. 23. In the House, on Wednesday and Thursday of each week, only Senate bills on their third and second readings, respectively, shall be taken up and considered until disposed of, and in case one shall be pending at adjournment, it shall go over to the succeeding day (Friday) as unfinished business; and this rule cannot be suspended without the consent of the Senate.

DIFFERENCES BETWEEN THE TWO HOUSES.

§ 1688. A House bill may be altered or amended in the Senate, provided its original purpose is not changed. When a House bill has been amended in the Senate, it is returned to the House for further consideration. The House may (a) agree to the amendments, (b) or agree to a part of the amendments and reject the other, if divisible, (c) or amend the Senate amendments, (d) or disagree to all and ask for a conference. Amending the amendments of the Senate has not been the practice in the House, yet it is founded on parliamentary law and the practice in Congress and seems to us to be the safest and sanest way to settle the differences between the two houses. This question is discussed in Jefferson's Manual, Section 514, Part I of this volume.

MESSAGES BETWEEN THE HOUSE AND THE SENATE.

§ 1689. The rule, according to Jefferson's Manual and the later practice in Congress, is that messages between the two Houses should be sent only when the two houses are sitting. This rule has not been strictly adhered to in the Texas Legislature. Messages from the Senate are received in the House whenever they are presented except during roll call or the taking of a vote. In the Committee of the Whole, the Speaker

takes the chair while the message is being read. All messages received from the Senate must be printed in the Journal.

§ 1690. A messenger from the Senate to the House shall be announced at the door of the House by the Doorkeeper and, upon recognition by the Speaker, the messenger shall respectfully read the message to the Chair. The same ceremony is observed when the messenger is sent from the House to the Senate.

§ 1691. All messages relating to the passage of an amendment to any bill, resolution or measure in passage between the two houses is usually signed by the Secretary of the Senate or the Chief Clerk of the House. The message must be in writing on one side of separate sheets of paper and shall be properly addressed to the presiding officer of the House to which it is sent and must be signed by the person delivering the same in his official capacity, and such message as written must be printed in full in the Journal of the House receiving the same.

§ 1692. Bills or resolutions on their passage between the two houses shall be on paper and under the signature of the Secretary or Chief Clerk of each house, respectively. All papers on which any bill or resolution may be founded shall be sent to the other house along with such bill or resolution.

"FREE" CONFERENCE COMMITTEE—REPORTS OF.

§ 1693. There is really no such thing as a "Free" Conference Committee authorized by the joint rules of the two houses. All the rules do is simply in case of a disagreement between the two houses, authorize the appointment of a Conference Committee to meet and consider the differences. After this conference, if each house shall have disagreed as to the disposition of the bill or resolution under consideration, it shall be lost.

While the rules do not authorize the appointment of a "Free" Conference Committee, yet by long-established custom and practice in the Legislature "Free" Conference Committees are generally appointed and these committees have often exercised plenary powers in that they have not confined their reports to the matters disagreed upon between the two houses, but have gone outside of that and in many instances have brought in entirely new bills. The practice in Congress has

established a precedent that a conference shall not in its report include subjects not within the disagreement submitted to them by the houses. In fact, this is based upon sound common sense as well as parliamentary law. (See Section 539, this volume, Part I.) However, where one house strikes out all of the bill of the other after the enacting clause and inserts a new text, and the difference is over this subject referred to the conference, the managers have a wide discretion in incorporating germane matter and may even report a new bill on the subject. But it is not within the province of a Conference Committee to include in its report new items constituting in fact a new and distinct subject not in disagreement, though germane to the questions in issue. An instance: A Conference Committee presented a report in the House of Representatives (Congress) in which it included new matter, viz.: the part of clause not found in either the House bill or the Senate amendment, the point of order was made on the consideration of this report on the ground that the committee exceeded its authority and, the point of order being sustained, was equivalent to the rejecting of the report of the House on a vote.

§ 1694. According to the practice in Congress and Jefferson's Manual, a "Free" Conference is one which leaves the Committee of Conference entirely free to pass upon any subject where the two houses have disagreed in their votes, not, however, including any action upon any subject where there has been a concurrent vote of both houses. A simple conference is that which confines the Committee of Conference to the specific instructions of the body appointing. Under this definition, all of the Conference committees not instructed are "free" and those who are instructed are "simple."

For a complete discussion of Conference Committees see Jefferson's Manual, Sections 523 to 552, inclusive, Part I, this volume.

As previously observed, Jefferson's Manual, with the precedents of the national House of Representatives, is the official authority where the rules of the House (Texas) are inexplicit, silent, etc.

Legislative Precedents.

§ 1695. The report of a Free Conference Committee was pending, when Mr. Love of Williamson raised a point of order on consideration of the report on the ground that the Con-

ference Committee should have confined its deliberations to adjustment of the differences between the two houses, but in lieu of such action the committee went outside such differences and have brought in a bill containing matter not submitted to it.

Overruled. (30th, p. 989.)

(Note.—If Mr. Love's statement of facts was correct, his point of order should have been sustained.—Editor.)

§ 1696. *A motion to insist on House amendments to a Senate bill does not take precedence over a motion previously made to recede from House amendments.*

Mr. McConnell moved that the House do now recede from its amendments to Senate bill No. 2, relating to the office of State Revenue Agent.

Mr. James moved that the House insist upon its amendments to Senate bill No. 2.

Mr. Alderdice raised a point of order on the motion of Mr. McConnell, stating that the motion of Mr. James that the House insist upon its amendments should be put and voted upon first.

Overruled. (30th, called, p. 383.)

§ 1697. *A motion to insist on House amendments to a Senate bill does not take precedence over a motion previously made to recede from House amendments.*

The House resumed consideration of the pending business, same being the motion of Mr. McConnell that the House do recede from its amendments, and motion of Mr. James that the House do insist upon its amendments.

Mr. James then raised a point of order and stated that the latter motion that the House do insist upon its amendments should have precedence over the former motion that the House do recede.

Overruled. (30th, called, p. 390.)